

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

GEORGE L. LOPEZ

V.

VETERAN AFFAIRS, ET AL.

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1:08-CV-404

**ORDER ADOPTING
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

The court referred this matter to the Honorable Earl S. Hines, United States magistrate judge, for pretrial proceedings pursuant to General Order 05-07. The court has received and considered the report of the United States magistrate judge, who recommends that the court dismiss plaintiff’s case without prejudice for lack of subject matter jurisdiction.

Plaintiff filed a “Notice of Injunction to Recommendation of United States Magistrate Judge” which the court construes as objections to the magistrate judge’s findings, conclusions, and analysis. This requires a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. 28 U.S.C. § 636(b)(1)(C).


Plaintiff’s objections are largely unintelligible, or have no applicability to the magistrate judge’s recommendation or to plaintiff’s case generally. None impugns the magistrate judge’s correct conclusion that this court lacks subject matter jurisdiction in a proceeding to compel the United States Department of Veterans Affairs to increase a disability rating and the amount of monthly benefits paid to a veteran. Moreover, plaintiff’s reference to 28 U.S.C. § 1916 (which authorizes a *seaman* to proceed without prepayment of fees or costs) has no relevance because plaintiff was previously granted the right to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915, and also because plaintiff’s indigence has no bearing on the separate question of the court’s

jurisdiction.

After conducting the required *de novo* review, the court concludes that the magistrate judge's findings, conclusions and analysis are correct. Accordingly, plaintiff's objections are **OVERRULED**, and the magistrate judge's report is hereby **ADOPTED**. A judgment dismissing this action will be entered separately.

The purpose of the referral having been served, it is further **ORDERED** that the reference to the magistrate judge is **VACATED**.

SIGNED this the **21** day of **November, 2008**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge